

rancher lessee will be given an option to purchase farm property. Terms of the option will be set forth as part of the lease as a special stipulation.

(1) The lease payments will not be applied toward the purchase price.

(2) The purchase price (option price) will be the advertised sales price as determined by an appraisal prepared in accordance with § 761.7 of this title.

(3) For inventory properties leased to a beginning farmer or rancher applicant, the term of the lease shall be the earlier of:

(i) A period not to exceed 18 months from the date that the applicant was selected to purchase the inventory farm, or

(ii) The date that direct, guaranteed, credit sale or other Agency funds become available for the beginning farmer or rancher to close the sale.

(4) Indian tribes or tribal corporations which utilize the Indian Land Acquisition program will be allowed to purchase the property for its market value less the contributory value of the buildings, in accordance with subpart N of part 1823 of this chapter.

(i) *Costs.* The costs of repairs to leased property will be paid by the Government. However, the Government will not pay costs of utilities or any other costs of operation of the property by the lessee. Repairs will be obtained pursuant to subpart B of part 1924 of this chapter. Expenditures on custodial property as limited in § 1955.55 (c) (2) of this subpart will be charged to the borrower's account as recoverable costs.

(j) *Security deposit.* A security deposit in at least the amount of one month's rent will be required from all lessees of SFH properties. The security deposit for farm property should be determined by considering only the improvements or facilities which might be subject to misuse or abuse during the term of the lease. For all other types of property, the leasing official may determine whether or not a security deposit will be required and the amount of the deposit.

(k) *Lease form.* Form RD 1955–20 approved by OGC will be used by the agency to lease property.

(l) *Lease income.* Lease proceeds will be applied as follows:

(1) *Custodial property.* The proceeds from a lease of custodial property will be applied to the borrower's account as an extra payment unless foreclosure proceedings require that such payments be held in suspense.

(2) *Inventory property.* The proceeds from a lease of inventory property will be applied to the lease account.

[62 FR 44397, Aug. 21, 1997, as amended at 64 FR 62568, Nov. 17, 1999; 68 FR 61332, Oct. 28, 2003]

EFFECTIVE DATE NOTE: At 69 FR 69106, Nov. 26, 2004, § 1955.66 was amended in paragraph (a)(2)(ii) by revising the words “subpart C of part 1930 of this chapter” to read “7 CFR part 3560”, effective Feb. 24, 2005.

§§ 1955.67–1955.71 [Reserved]

§ 1955.72 Utilization of inventory housing by Federal Emergency Management Agency (FEMA) or under a Memorandum of Understanding between the Agency and the Department of Health and Human Services (HHS) for transitional housing for the homeless.

(a) *FEMA.* By a Memorandum of Understanding between the Agency and FEMA, inventory housing property not under lease or sales agreement may be made available to shelter victims in an area designated as a major disaster area by the President. See Exhibit A of this subpart (available in any FmHA or its successor agency under Public Law 103–354 office). Authority is hereby delegated to the State Director to implement this Memorandum of Understanding; and the State Director may redelegate this authority to County Supervisors or District Directors.

(b) *HHS.* By a Memorandum of Understanding between the Agency and HHS, inventory housing property not under lease or sales agreement may be made available by lease to public bodies and nonprofit organizations to provide transitional housing for the homeless. See Exhibit D of this subpart (available in any FmHA or its successor agency under Public Law 103–354 office). Authority is hereby delegated to the State Director to implement this Memorandum of Understanding; and the State Director may redelegate this authority to County Supervisors or District Directors. Copies of all executed leases and/or questions regarding

RHS, RBS, RUS, FSA, USDA

Pt. 1955, Subpt. B, Exh. B

this program should be referred by State Offices to the Single Family Housing Servicing and Property Management (SFH/SPM) Division in the National Office.

[54 FR 20523, May 12, 1989, as amended at 60 FR 34455, July 3, 1995]

§§ 1955.73–1955.80 [Reserved]

§ 1955.81 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart, or address any omission of this subpart which is not inconsistent with the authorizing statute or other applicable law, if the Administrator determines that the Government's interest would be adversely affected or the immediate health and/or safety of tenants or the community are endangered if there is no adverse effect on the Government's interest. The Administrator will exercise this authority upon request of the State Director with the recommendation of the appropriate program Assistant Administrator or upon a request initiated by the appropriate program Assistant Administrator. Requests for exceptions must be made in writing and supported with documentation to explain the adverse effect, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

[53 FR 35765, Sept. 14, 1988, as amended at 58 FR 58649, Nov. 3, 1993]

§ 1955.82 State supplements.

State supplements will be prepared with the assistance of OGC as necessary to comply with State laws or only as specifically authorized in this regulation to provide guidance to FmHA or its successor agency under Public Law 103–354 officials. State supplements applicable to MFH must have prior approval of the National Office; others may receive post approval. Requests for approval for those affecting MFH must include complete justification, citations of State law, and an opinion from OGC.

§§ 1955.83–1955.99 [Reserved]

§ 1955.100 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0575–0110.

EXHIBIT A TO SUBPART B OF PART 1955—
MEMORANDUM OF UNDERSTANDING
BETWEEN THE FEDERAL EMERGENCY
MANAGEMENT AGENCY AND THE
FARMERS HOME ADMINISTRATION OR
ITS SUCCESSOR AGENCY UNDER PUBLIC
LAW 103–354

EDITORIAL NOTE: Exhibit A is not published in the Code of Federal Regulations. It is available in any FmHA or its successor agency under Public Law 103–354 County Office.

EXHIBIT B TO SUBPART B OF PART 1955—
NOTIFICATION OF TRIBE OF AVAILABILITY OF FARM PROPERTY FOR
PURCHASE

(To Be Used By Farm Service Agency to
Notify Tribe)

From: County official

To: (Name of Tribe and address)

Subject: Availability of Farm Property for
Purchase

[To be Used within 90 days of acquisition]

Recently the Farm Service Agency (FSA) acquired title to _____ acres of farm real property located within the boundaries of your Reservation. The previous owner of this property was _____. The property is available for purchase by persons who are members of your tribe, an Indian Corporate entity, or the tribe itself. Our regulations provide for those three distinct priority categories which may be eligible; however, you may revise the order of the priority categories and may restrict the eligibility to one or any combination of categories. Following is a more detailed description of these categories:

1. Persons who are members of your Tribe. Individuals so selected must be able to meet the eligibility criteria for the purchase of Government inventory property and be able to carry on a family farming operation. Those persons not eligible for FSA's regular programs may also purchase this property as a Non-Program loan on ineligible rates and terms.

2. Indian corporate entities. You may restrict eligible Indian corporate entities to those authorized by your Tribe to purchase lands within the boundaries of your Reservation. These entities also must meet the basic